

The 25th November, 1985

No. 9/5/84-6Lab./9450.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of Haryana State Electricity Board, Chandigarh.

IN THE COURT OF SHRI V.P. CHAUDHRY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 75 of 1984

SHRI RAM SARUP, WORKMAN AND THE MANAGEMENT OF HARYANA STATE ELECTRICITY BOARD, CHANDIGARH

Present:—Shri Balbir Singh, for the workman;
Shri S. Bindra, for the respondent.

AWARD

The Hon'ble Governor of Haryana in exercise of powers conferred, *vide* clause (C) of sub-section (10) of the Industrial Disputes Act, 1947 referred the following dispute between Shri Ram Sarup, workman and the management of Haryana State Electricity Board, Chandigarh. The terms of the reference are as under:—

“Whether the termination of services of Shri Ram Sarup was justified and in order? If not, to what relief is he entitled to?”

Shri Ram Sarup, workman has alleged that he was employee of Haryana State Electricity Board. At the time of termination of his services he was working with Xen., Sub-Urban Division, Haryana State Electricity Board, Jagadhari under J.E. Bilaspur. The Xen, issued retrenchment notice, dated 9th January, 1984 for terminating his services with effect from 11th February, 1984 and the notice was served upon the applicant on 25th January, 1985, the letter in question was received in the office of J.E. on 24th January, 1984. In addition to that he has alleged that even the respondent did not bother to observe the principle of last come first go. Many juniors to him have been retained in service and thus respondent has violated the provisions of Section 25(F) of the Industrial Disputes Act, 1947.

Respondent-management has contested the case and has contended that the Haryana State Electricity Board is a juristic person and has not been impleaded as a party. So reference is bad for non-joinder of proper party. It was also contended that petition is not maintainable under Section 82 of the Electricity Act, 1948. On merits it was contended that a one month notice was issued to workman before terminating his services, service of notice was got effected on workman on 11th January, 1984 and the applicant was also paid retrenchment compensation, last come first go principle was also followed. So the applicant is not entitled to any relief prayed for.

On the pleadings of the parties the following issues were framed:

1. Whether termination order, dated, 11th February, 1984 regarding the termination of services of the workman is according to law, if not, its effect? OPM
2. Relief.

I have heard Shri Balbir Singh, authorised representative of the applicant and Shri S. Bindra, authorised representative of respondent and have gone through the evidence placed on the file. After affording a thoughtful consideration to the whole of the matter in controversy between the parties my issue-wise findings are as under:—

Issue No. 1:

In support of this issue Shri Mohan Lal Gupta, J.E. Grade-I appeared in the witness box and made statement on oath that regarding retrenchment of applicant notice Ex. M-1 was issued and service of that notice was got effected upon the applicant on 11th January, 1984. Receipt in this respect is Ex. M-2. In P form the Government was also intimated regarding the retrenchment of the applicant. Copy of the same is Ex. M-3. Retrenchment Compensation was also despatched to the applicant through M.C. which he received. Receipt of the same is Ex. M-4. Copy of compensation account is Ex. M-5. Copy of list of seniority is Ex. M-6. Name of applicant figures at serial No. 165. While workers from Sr. Nos. 135 to 184 were retrenched. He denied the suggestion that notice was received in his office on 24th January, 1984. He also denied that service of this notice was got effected upon the application 25th January, 1984.

Shri Mohan Lal Gupta, UDC also appeared in the witness box and fully corroborated the testimony of MW-1. In this cross-examination he denied the suggestion that notice was received on 24th January, 1984 and was served upon the applicant on 25th January, 1984. He stated that the notice was received through peon of the Xer office and it remained lying without being entered in the diary register and at later stage, etc. on 24th January, 1985 it was diarised by the diary clerk.

Shri Ram Sarup applicant appeared as AW-1. He stated that he was given 10 days notice and was retrenched. In cross-examination he stated that he has received retrenchment compensation. He further deposed that many workmen were retrenched with him. The seniority list which is in the possession of the respondent is not correct. The correct seniority list is in the possession of the workers union. He also agitated that certain juniors persons to him were retained in service while he was illegally terminated.

In view of this above evidence, the learned authorised representative of the workman has tried to create suspicion that in fact 10 days notice was given to the workman and thus there is a violation of section 25 (F) of the Industrial Disputes Act, 1947.

But this contention of the learned authorised representative of the workman does not appeal to my mind in the presence of statement on oath of two officers/official Shri Mohan Lal Gupta, J.E.-grade-I and Shri Mohan Lal Gupta UDC stated that notice was received on 11th January, 1984. On the same very day it was served upon the workman and receipt to this effect is Ex. M-2. This receipt is duly signed by the applicant and when it was put to workman he identified his signature on this receipt. The explanation given by MW-2 that in routine the diary of such letters can be delayed by the receipt clerk in those circumstances it does not mean that the letter was received in the office of respondent on the day it was entered in the receipt register. So no adverse inference can be drawn from it against the respondent-management. More over there is no suggestion of witnesses of management that due to any specific or particular enmity they have deposed falsely against the workman. So the defence taken by the workman is not plausible, hence cannot be believed.

The worker has failed to summon the seniority list prepared and kept by the union in its office. In the absence of the same I have to rely upon the seniority list tendered into evidence by the respondent-management. According to this seniority list name of workman Ram Sarup figures at Sr. No. 165 when workman from Sr. No. 135 to 184 have been retrenched, so there the question of keeping junior person to Shri Ram Sarup in service does not arise. Accordingly, I reach at the conclusion that the management has been able to justify the order of retrenchment due to shortage of material and paucity of work. So this issue is decided in the affirmative.

Issue No. 2

On the basis of my findings on issue No. 1 I hold that the order of termination of services of workman Shri Ram Sarup is just and legal. Hence it is maintained. Regarding the dispute, in question, I, pass my award accordingly.

Dated : 4th October, 1985.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endst. No: 2466, dated the 10th October, 1985.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

No. 9/5/84-6Lab./9454.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Jai Forgings & Stamping Pvt. Ltd., Industrial Area, Yamuna Nagar.

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER; LABOUR COURT, AMBALA

Ref. No. 374 of 1984

Old No. 57 of 1982

SHRI RAJ KUMAR, WORKMAN AND THE MANAGEMENT OF M/S JAI FORGINGS & STAMPING
PVT. LTD., INDUSTRIAL AREA, YAMUNA NAGAR

Present.—

Shri Balbir Singh, for the workman.

Shri S. Bindra, for the respondent.